

Assembly Bill No. 1269

CHAPTER 116

An act to amend Section 45308 of the Education Code, relating to classified employees.

[Approved by Governor July 25, 2011. Filed with
Secretary of State July 25, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1269, Portantino. Classified school employees: layoff: reemployment.

Existing law requires that when classified employees are subject to layoff for lack of work or lack of funds, the order of layoff within the class be determined by length of service, providing that the employee who has been employed the shortest time in the class, plus higher classes, be laid off first. Existing law requires that reemployment be in the reverse order of layoff.

This bill would delete the provisions requiring that reemployment be in the reverse order of layoff, and instead require that reemployment be in order of seniority.

The people of the State of California do enact as follows:

SECTION 1. Section 45308 of the Education Code is amended to read: 45308. (a) Classified employees shall be subject to layoff for lack of work or lack of funds. If a classified employee is laid off, the order of layoff within the class shall be determined by length of service. The employee who has been employed the shortest time in the class, plus higher classes, shall be laid off first. Reemployment shall be in order of seniority.

(b) For purposes of this section, in school districts with an average daily attendance below 400,000, for service commencing or continuing after July 1, 1971, "length of service" means all hours in paid status, whether during the school year, a holiday, recess, or during any period that a school is in session or closed, but does not include any hours compensated solely on an overtime basis as provided for in Section 45128. Nothing in this section shall preclude the governing board of a school district from entering into an agreement with the exclusive representative of the classified employees that defines "length of service" to mean the hire date. For purposes of this section, in school districts with an average daily attendance of 400,000 or more, for service commencing or continuing after January 1, 1986, "length of service" shall be determined by the date of hire.

If a governing board enters into an agreement with the exclusive representative of classified employees that defines "length of service" to mean the hire date, the governing board may define "length of service" to

mean the hire date for a classification of employee not represented by any exclusive bargaining unit.

(c) Nothing contained in this section shall preclude the granting of “length of service” credit for time spent on unpaid illness leave, unpaid maternity leave, unpaid family care leave, or unpaid industrial accident leave. In addition, for military leave of absence, “length of service” credit shall be granted pursuant to Section 45297. In the event an employee returns to work following any other unpaid leave of absence, no further seniority shall be accrued for the time not worked.

(d) “Hours in paid status” shall not be interpreted to mean any service performed prior to entering into a probationary or permanent status in the classified service of the district except service in restricted positions as provided in this chapter.